

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST
FOR REVIEW BY:

EDWARD JEFFERSON

Petitioner.

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CHARGE NO.: 2008CN3767
EEOC NO.: N/A
ALS NO.: 10-0128

ORDER

This matter coming before the Commission by a panel of three, Commissioners David Chang, Marylee V. Freeman and Charles E. Box presiding, upon Edward Jefferson's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")¹ of Charge No. 2008CN3767; and the Commission having reviewed *de novo* the Respondent's investigation file, including the Investigation Report and the Petitioner's Request, and the Respondent's response to the Petitioner's Request; and the Commission being fully advised upon the premises;

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The Petitioner's Request for Review is hereby **DISMISSED WITHOUT PREJUDICE**; and
- (2) The Respondent shall treat the Petitioner's Request for Review as having been timely filed with the Respondent's Chief Legal Counsel, pursuant to 56 Ill. Admin. Code § 2520.573.

In support of which determination the Commission states the following findings of fact and reasons:

1. On October 10, 2007, the Petitioner filed with the Respondent an unperfected charge of race discrimination and retaliation in violation of the Illinois Human Rights Act. The charge was perfected on June 30, 2008.
2. On July 28, 2008, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On August 7, 2008, the Petitioner timely filed a request for review of the dismissal with the Respondent's Chief Legal Counsel. On November 24, 2008, the Chief Legal Counsel entered an order vacating the dismissal of the Petitioner's charge and remanding the charge to the Respondent for further processing.
3. On February 8, 2010, the Respondent dismissed the Petitioner's charge for Expiration of Time Period to file a complaint with the Commission. The Respondent incorrectly notified the Petitioner that he could file a request for review of the dismissal with the Commission rather than with the Respondent's Chief Legal Counsel.
4. On February 19, 2010, the Petitioner filed his Request with the Commission.
5. In its response, the Respondent asks the Commission to dismiss the Petitioner's Request, without prejudice, on the ground that the Commission lacks jurisdiction to hear and determine this Request. The Respondent submits the Petitioner should have been directed to file his Request with the

¹ In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

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Respondent's Chief Legal Counsel rather than with the Commission. The Respondent states that it will deem the Petitioner's Request as having been timely filed with the Respondent's Chief Legal Counsel.

CONCLUSION

When the Department dismisses a charge filed after January 1, 1996, and before January 1, 2008, pursuant to 56 Ill. Admin. Code § 2520.573, the Petitioner may request review of that dismissal by filing a request for review with the Respondent's Chief Legal Counsel.

The Petitioner filed his charge in October 10, 2007. Therefore, pursuant to 56 Ill. Admin. Code § 2520.573, the Commission lacks jurisdiction to hear and determine the Petitioner's Request as jurisdiction to hear and determine the Petitioner's Request rests solely with the Respondent's Chief Legal Counsel.

This Request will be remanded to the Department for proceedings consistent with this order.

WHEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The Petitioner's Request for Review is hereby **DISMISSED WITHOUT PREJUDICE** as the Commission lacks jurisdiction to hear this Request; and
- (2) This matter is remanded to the Department for proceedings consistent with this order; and
- (3) The Respondent shall treat the Petitioner's Request for Review as having been timely filed with the Respondent's Chief Legal Counsel, pursuant to 56 Ill. Admin. Code § 2520.573.

STATE OF ILLINOIS

HUMAN RIGHTS COMMISSION

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Entered this 14th day of April 2010.

Commissioner David Chang

Commissioner Marylee Freeman

Commissioner Charles E. Box